

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**FORD MOTOR CREDIT COMPANY,
APPELLANT,**

v.

Case No. 06C1324

**JOSEPH MICHAEL TURKOWITCH and
CAROL JEAN TURKOWITCH,
APPELLEES.**

ORDER

_____ On December 28, 2006, appellant Ford Motor Credit Company filed a notice of appeal from a November 22, 2006, order from the United States Bankruptcy Court for the Eastern District of Wisconsin confirming the Chapter 13 plan and overruling the objection to confirmation filed by appellant. On February 9, 2007, while the matter was pending on appeal, the Trustee filed a motion to dismiss the underlying bankruptcy proceeding due to the debtor's failure to make timely payments. On March 9, 2007, the Honorable Susan V. Kelley dismissed the bankruptcy petition and ordered distribution of the funds.

Section 349 of the Bankruptcy Code explains that a dismissal "revests the property of the estate in the entity in which such property was vested immediately before the commencement of the case...." Thus, "dismissal of a bankruptcy proceeding normally results in dismissal of related proceedings because federal jurisdiction is premised upon the nexus between the underlying bankruptcy case and the related proceedings" Matter of Statistical Tabulating Corp., 60 F.3d 1286, 1289 (7th Cir. 1995). However such result is not required in all cases and the rule is not without exceptions. Id. (citing In re Morris, 950 F.2d 1531, 1534 (11th Cir.1992)). Dismissal of the entire case is appropriate only, for

example, where the matter on appeal is entirely dependent on the existence of the bankruptcy. Id. (citing In re Income Prop. Builders, Inc., 699 F.2d 963 (9th Cir.1982)). However, where live controversy still exists the dismissal will not otherwise moot the issue on appeal and the appeal may proceed. Id. at 1290.

Given the existence of this jurisdictional issue, and because it arose subsequent to the briefing of the issues on appeal, I respectfully request that the parties submit supplemental briefs addressing the issue no later than **June 18, 2007**.

SO ORDERED at Milwaukee, Wisconsin, this 18 day of May 2007.

/s _____
LYNN ADELMAN
District Judge